

June 14 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0552

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

TYSON LEE HAPPEL,

Defendant and Appellant.

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Koan Mercer, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until July 13, 2010, in which to prepare, file, and serve the Appellant's reply brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 14th day of June, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

By: *Jocelyn Hunt**for*

KOAN MERCER

Assistant Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as Chief Appellate Defender.

2. In my capacity as Chief Appellate Defender, I have assigned Mr. Mercer to handle the above-entitled matter.

3. The Appellant's reply brief was first due on June 8, 2010. The reply brief is presently due on June 22, 2010.

4. Mr. Mercer is out of the office on paternity leave for approximately three weeks. Consequently, he is unable to meet the requisite deadline. Upon his return, Mr. Mercer will work diligently to complete the matter in the time requested.

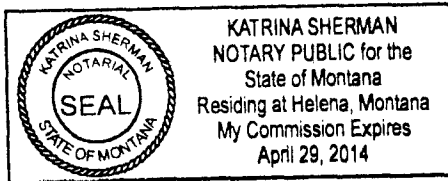
5. Opposing counsel has been contacted concerning this motion and does not object.

6. Further your affiant sayeth naught.

Joslyn Hunt
JOSLYN HUNT

SUBSCRIBED AND SWORN to before me this 14th day of

June, 2010.



Katrina Sherman
Katrina Sherman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing

Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

DENNIS PAXINOS
Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107-5025

TYSON LEE HAPPEL 3002269
Crossroads Correctional Center
50 Crossroads Drive
Shelby, MT 59474

DATED: _____

6/14/10 